

PT 98-22

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

BIBLE WAY ASSOCIATION,)	
ILLINOIS DISTRICT)	
Applicant)	
)	Docket # 94-94-23
v.)	
)	Parcel Index # 07-209-034-00 (Div)
THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. George Hennenfent appeared on behalf of the Bible Way Association, Illinois District.

Synopsis:

The hearing in this matter was held on February 21, 1997, at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois to determine whether or not Warren County Parcel Index No. 07-209-034-00 (Div) qualified for exemption from real estate taxation for the 1994 assessment year.

Mr. George R. Spurbeck, regional overseer for the Bible Way Association, Illinois District (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant is a religious organization, and secondly, whether the applicant used this parcel for religious purposes during all or part of

the 1994 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization. It is also determined that the applicant used this parcel for religious purposes, as its administrative office, during the period September 1, 1994, through December 31, 1994. It is therefore recommended that this parcel and the building thereon be exempt from real estate taxation for 33% of the 1994 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption for the 1994 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 5.

2. On February 10, 1995, the Warren County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review, which had been filed by the applicant on January 6, 1995, with the Board. (Dept. Ex. No. 1)

3. On December 22, 1995, the Department notified the applicant that it was denying the exemption of this parcel for the 1994 assessment year, for the reason that this parcel was not in exempt ownership during 1994. (Dept. Ex. No. 2)

4. By a letter dated January 8, 1996, the attorney for the applicant requested a formal hearing in this matter. (Dept. Ex. No. 3)

5. The hearing in this matter, which was conducted on February 21, 1997, was held pursuant to that request.

6. The applicant was incorporated in the State of Missouri under the name of Community Fellowship Pentecost Ministers and Churches Association, on July 8, 1960, for the following purposes:

. . . to promote religious training; to preach and teach The Full Gospel; to aid, assist and train students for the ministry; to ordain, license and issue

credentials to qualified ministers; to promote missions and churches; to promote fellowship among other churches; to generally preach and teach the Gospel; to maintain, own and operate a place or places of worship and to do all other things necessary and proper to conduct a religious organization as authorized by law. (Appl. Ex. No. 1)

7. On June 18, 1974, the name of the corporation was changed to Bible Way Association. (Appl. Ex. No. 1)

8. On September 14, 1990, the Bible Way Association was authorized to do business in Illinois. The applicant includes the churches affiliated with the Bible Way Association located in Illinois. (Appl. Ex. No. 3, Tr. pp. 8, 9, & 12)

9. The Bible Way Association is an organization of independent ministers and churches which are basically of the Pentecostal doctrine. (Tr. p. 9)

10. The applicant negotiated with Roseville Veterinary Clinic to purchase the parcel here in issue and the office building thereon. The Veterinary Clinic, as seller and the applicant, as purchaser, entered into a contract to sell this parcel to the applicant. (Tr. p. 12, Dept. Ex. No. 1E)

11. The contract for the sale of real estate provided that the Veterinary Clinic, as seller, would sell this parcel and the building thereon to the applicant for \$3,000.00. The applicant paid \$750.00 down and received possession of the property on September 1, 1994. The real estate taxes for 1994 were to be prorated as of the date of possession. The contract also provided that the balance of the purchase price was to be paid on or before February 1, 1995. (Dept. Ex. No. 1E)

12. After taking possession of this parcel and the building thereon, the applicant immediately began to remodel the building on this parcel, including laying carpet, so it could use it for its district office. (Tr. pp. 12 & 13)

13. The building on this parcel includes a foyer, an office, a copy center, a conference room, a storage room, and a rest room. During the period September 1, 1994, through December 31, 1994, all of the building was used by the applicant as its district office. (Tr. pp. 16-18, Dept. Ex. No. 1K)

14. During the period September 1, 1994, through December 31, 1994, this building was specifically used by the applicant to maintain the records of its 6 or 7 affiliated churches in Illinois, as well as maintaining the records for its pastors in Illinois. Applicant also relayed the foregoing records to the Bible Way Association headquarters in Doniphan, Missouri. (Tr. pp. 16 & 17).

15. The applicant provides ongoing continuing education programs for ministers, church officers, and Sunday School teachers of the Bible Way Association in the Illinois District. These educational programs are set up, administered, and in some cases held in this building. (Tr. p. 17)

16. The applicant paid the sum remaining to be paid on the contract and received a warranty deed to this parcel on February 1, 1995. (Tr. p. 15, Dept. Ex. No. 1F)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides in part, as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . and not leased or otherwise used for profit is exempt,

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of

establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

35 ILCS 200/15-40 requires that a parcel be used for religious purposes by a religious organization. During the period September 1, 1994, through December 31, 1994, the record is clear that the applicant, a religious organization, was in possession of this parcel and used said parcel for religious purposes, namely as its administrative office for the Illinois District. In the case of Evangelical Hospital Association v. Novak, 125 Ill.App.3d 439 (2nd Dist. 1984), the Court determined that an administrative office providing support services to a charitable hospital qualified for exemption even though it was separate and apart from the hospital building itself. That is also the case here. The administrative office of the applicant is separate and apart from the churches of the Illinois District but it maintains the records of the churches and the ministers of those churches and provides continuing religious education and support to the ministers and lay persons of the churches.

In his brief, the attorney for the applicant cites the case of Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978), which concerned a charitable organization which was purchasing a piece of property pursuant to a contract for warranty deed. In that case, the Supreme Court held that a contract for warranty deed was a method of financing not unlike a purchase money mortgage and consequently, the contract purchaser, pursuant to this alternative method of financing, was the owner of the property for real estate tax purposes. The contract for purchase in this case is not a contract for warranty deed. It does not provided for regular periodic payments and does not include interest on such payments. The contract for purchase in this case simply provides for a down payment with the applicant receiving possession of the property and the payment of the balance of the purchase price and the delivery of the deed six months later. This case is therefore distinguishable from the Christian Action Ministry case.

Based on the foregoing, I recommend that Warren County Parcel Index No. 07-209-034-00 (Div) be exempt from real estate taxation for 33% of the 1994 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
March 12, 1998